

1 don't know the total number.

2 Q. When you say your records, do you happen to
3 have documents that show how many total employees work
4 at BE&K at any given date?

5 A. I don't have those. I have my layoff list.

6 Q. Do you have a master layoff list that would
7 track how many people were laid off in a particular
8 year?

9 A. I have a master termination list by year.

10 Q. You do. Is that one document or a series of
11 documents?

12 A. It prints out I guess into a series. It's by
13 month.

14 Q. Okay. So you have one document like January of
15 2006 and then February of 2006?

16 A. Correct.

17 Q. Do you have a master list that just has each
18 employee for the year that was let go?

19 A. I don't have that list.

20 Q. On your master termination list that you have,
21 how are the employees -- let me rephrase.

22 On this master list, does it tell you the
23 date of termination for the employee?

24 A. Yes.



WILCOX & FETZER LTD.
Registered Professional Reporters

B 151

1 BY MR. ANGLADE:

2 Q. I want to show you a document that was
3 introduced during Chris Guttridge's deposition. It's
4 Guttridge 3. Please review that and let me know when
5 you're finished. It's Bates stamped EEOC 84.

6 A. (Reviewing document).

7 Q. Have you reviewed the document?

8 A. Yes.

9 Q. Have you ever seen it before?

10 A. I believe so.

11 Q. Did you prepare this document?

12 A. I did not.

13 Q. Can you just explain to me what it is, if you
14 can?

15 A. It looks like it reflects the people that
16 returned to work for BE&K through Allstates and where
17 it has recall they did not come back. That was not a
18 statement of not to recall them because Prabhakar
19 Sharma, we did call him and he refused to come back.

20 So it was not a statement not to recall.
21 It was just reflecting where they were from the
22 process. These are all process department people.

23 Q. I'll submit to you that this list was provided
24 to the EEOC during the investigation and I believe

B 152



WILCOX & FETZER LTD.
Registered Professional Reporters

1 it's a list of process department employees, just as
2 you described, who were laid off by BE&K from November
3 of 2003, I believe, through 2004. So it's not an
4 updated list but just for that time period.

5 Now, do you recognize all the names of the
6 individuals listed?

7 A. Yes, I do.

8 Q. Now, do you recall the first time you saw this
9 chart?

10 A. No, I don't.

11 Q. Would you agree with me that the five
12 individuals listed on this list were over the age of
13 40 at the time they were terminated by BE&K?

14 A. I would have to do my math for Andrea, but the
15 others, yes.

16 Q. Well, Andrea Gerwig, her date of birth says
17 6-15-63 and her date of termination is 6-30-2004, so
18 that means she would have been I believe 41 years old
19 at the time she was terminated.

20 Would you agree with me?

21 A. Yes.

22 Q. Now, when you reviewed this chart, were you at
23 all concerned that the five employees who were let go
24 from the process department were all over the age of



B 153

WILCOX & FETZER LTD.
Registered Professional Reporters

1 40?

2 A. No. Andrea requested this because she wants to
3 raise her children and take lots of time off, so she
4 requested that we move her to Allstates.

5 The other three fell into our median age
6 in the company. As I said before, our people are
7 experienced, very seasoned. We don't train them.
8 They hit the ground running. That's what our employee
9 population looks like.

10 Q. So you weren't concerned at all?

11 A. No.

12 Q. Did the thought ever enter your mind that there
13 could be a concern about a pattern of age
14 discrimination?

15 MS. DiBIANCA: I'll object as to form.

16 You can go ahead and answer.

17 A. I send this to Birmingham where there's a
18 lawyer who is our senior VP of HR and I let them look
19 at it and second-guess. I'm a layperson.

20 I personally don't see anything wrong
21 because this reflects our employee population.

22 Q. Okay. Well, I'm just asking did the thought
23 ever enter your mind when you were reviewing it? I
24 know what you have already told me what your

B 154



WILCOX & FETZER LTD.
Registered Professional Reporters

1 conclusion is.

2 I'm just asking was it something that you
3 thought about or considered at the time you reviewed
4 the chart?

5 A. Each time I look at a list I look to see if
6 there's something to be concerned with, if we are
7 adversely treating people discriminately.

8 Q. So it was something you considered, but you
9 formed the conclusion that there wasn't a pattern?

10 MS. DiBIANCA: I'm just going to object as
11 to we're way down the road with this question and I
12 don't know that we're asking the same thing.

13 Q. Do you understand my question?

14 A. I'm not sure.

15 Q. Okay. While reviewing this chart you did
16 consider whether or not there could be a pattern of
17 age discrimination?

18 MS. DiBIANCA: I restate my objection on
19 the legal terminology.

20 Go ahead and answer.

21 A. It's difficult for me to determine if there's
22 age discrimination when we're all the same age.
23 They're all my age or a little older or a little
24 younger. That's our employee population.

B 155



WILCOX & FETZER LTD.
Registered Professional Reporters

1 My question is: If it was shown that
2 Mr. Perez could have done the work that Christopher
3 Guttridge was doing, do you believe Guttridge should
4 have been the one to be terminated and not Perez?

5 A. And I have to answer that Mr. Howe told me that
6 Mr. Perez could not have done what Chris was doing and
7 he billed it -- he answered me around skill sets and I
8 don't understand the skills. That's why I say to you
9 you're going to have to ask Mr. Howe that question.

10 Q. No. I understand.

11 But my question doesn't have to do with
12 Mr. Howe. It's just saying, my question is if it
13 could be shown. It doesn't matter what Mr. Howe says.
14 If it could be shown, do you believe Guttridge should
15 have been the one let go and not Perez, Mr. Perez?

16 A. If it could be shown that Obed could do Chris
17 Guttridge's job and take a decrease in pay to reflect
18 what Chris Guttridge was doing because that's what you
19 bill the client for, then possibly.

20 Q. And why is that?

21 A. I'm sorry?

22 Q. You just gave an answer. I'm just following up
23 why?

24 A. It seems like you want me to say that I guess

B 156



WILCOX & FETZER LTD.
Registered Professional Reporters

1 all things being equal. I didn't see any of that as
2 being equal because I keep saying for the record that
3 Mr. Perez did not have the skill sets that Chris had
4 and that's what Mr. Howe told me. And three years ago
5 I understood his answer. Today I can't repeat what he
6 said to me.

7 I just know we went down that road and he
8 said he didn't have the skill sets to do what Chris
9 was doing.

10 Q. No. I understand your answer, but I asked you
11 a different question and you gave an answer to it and
12 I'm just following up on your answer.

13 And my question was why is that? I'm just
14 following up on your answer. It's a different
15 question.

16 MS. DiBIANCA: Do you want to have him
17 reread her answer?

18 MR. ANGLADE: Can you reread her answer?

19 (The reporter read back from the
20 transcript from page 130, line 16 to page 130, line
21 19.)

22 BY MR. ANGLADE:

23 Q. Then my question is: Why is that? I'm just
24 asking you to explain further your answer.

B 157



WILCOX & FETZER LTD.
Registered Professional Reporters

Peter Howe

14

indicates the flow of a process plant. The development of a more detailed version of that, called the process and instrumentation diagram. The development of equipment specifications, such as pumps, tanks, compressors.

Q. Anything else?

A. Things like safety reviews.

Q. Anything else?

A. That covers 90 percent of what we do.

Q. Okay. The process department engineers do?

A. Yes.

Q. What is the other 10 percent?

A. Miscellaneous tests, process studies, calculations specific to a client's request.

Q. Was that miscellaneous tests such as process studies based on a client's request?

A. Yes.

Q. Is there anything else that the process department engineers do?

A. Also would be some field work.

Q. What does that mean?

A. Go onto one of our client's sites and help operate the facility, troubleshoot problems, help solve small projects.

B 158



WILCOX & FETZER LTD.
Registered Professional Reporters

1 Q. Anything else that they do?

2 A. I'm sure there are other things, but really
3 that's approximately -- that's about it.

4 Q. Okay. What about line sizing work?

5 A. Yes. In the development of the process and
6 instrumentation diagram, part of that is indicating what
7 size the lines are on the diagram and within that
8 document there are a lot of things like that, equipment
9 numbering, line numbering, line sizing.

10 Q. Are there different classifications for process
11 department engineers?

12 A. Yes.

13 Q. Okay. Please tell me what the classifications
14 are.

15 A. At BE&K the classifications starts at engineer I,
16 engineer II, engineer III, engineer IV, process engineer,
17 senior process engineer, design specialist, principal
18 engineer, chief process engineer or process manager.
19 Both titles are used at the same level.

20 Q. Is the chief process engineer the chief engineer?

21 A. No. The chief process engineer is the process
22 department manager who will report to the chief engineer.

23 Q. Was that your position in '99?

24 A. Yes.

B 159



WILCOX & FETZER LTD.
Registered Professional Reporters

1 Q. So when people say you were the department
2 manager, that's the chief process engineer?

3 A. Correct.

4 Q. What makes somebody an engineer I?

5 A. Bachelor of science, college graduate -- Bachelor
6 of science, engineering, college graduate.

7 Q. Is that bachelor of science in chemical
8 engineering or just engineering period?

9 A. Within the process department it would be
10 chemical engineering.

11 Q. What would make someone an engineer II?

12 A. Typically one to three years of experience.

13 Q. What would make somebody engineer III?

14 A. Typically three to five years of experience.

15 Q. You said three to five years experience?

16 A. Yes.

17 Q. What would make somebody an engineer IV?

18 A. Five to 10 years of experience.

19 Q. What would make someone a process engineer?

20 A. Ten to 15 years of experience.

21 Q. What would make somebody a senior process
22 engineer?

23 A. Someone who has the capability of leading other
24 process engineers and leading, directing others in

B 160



WILCOX & FETZER LTD.
Registered Professional Reporters

1 process design.

2 Q. Does that mean somebody to be a project lead, for
3 example?

4 A. Someone that could be a lead process engineer on
5 a project. A project lead, that terminology is a little
6 bit different.

7 Q. Okay. So meaning a senior process engineer would
8 be somebody who would be supervising other engineers on a
9 particular project?

10 A. Other process engineers.

11 Q. What would make somebody a design specialist?

12 A. Someone who has technical specialty and you are
13 able to lead other process engineers on larger projects
14 than a senior process engineer would be leading.

15 Q. So a design specialist is considered a higher
16 classification than a senior process engineer?

17 A. Yes.

18 Q. I'm assuming a design specialist would have more
19 than 10 to 15 years of experience?

20 A. Typically, yes.

21 Q. What's a principal engineer?

22 A. Principal engineer is a, you could say it's a
23 design specialist who has more capabilities and in
24 specific around presenting proposals to our clients,

B 161



WILCOX & FETZER LTD.
Registered Professional Reporters

1 estimating potential work, and then going further and
2 leading that work through execution of the job and
3 typically can handle much larger jobs, the largest jobs
4 that we can do.

5 Q. What's the chief process engineer?

6 A. Chief process engineer is the department manager
7 and they manage all of the process engineers within that
8 group -- within that department.

9 Q. Are there any other classifications?

10 A. Not within the process department. There are
11 sometimes different terminology used for some of the same
12 positions.

13 Q. Now, when you were the chief process engineer --
14 let's just use department manager, that would be probably
15 easier throughout the day -- what were your specific
16 duties and responsibilities?

17 A. Hiring of chemical engineers, managing the
18 utilization of the department, making sure engineers are
19 trained to be able to do their jobs, assigning engineers
20 to projects.

21 Q. Anything else?

22 A. Developing proposals and presenting them to
23 clients, business development, work process development,
24 procedure development.

B 162



WILCOX & FETZER LTD.
Registered Professional Reporters

1 Q. Anything else?

2 A. Specific issues that may come up from day to day.

3 Q. Anything else?

4 A. No.

5 Q. Okay. If you had to terminate someone from your
6 department, would you have to interact with Mr. Pinson
7 with respect to that decision?

8 A. No.

9 Q. Okay. If you had to terminate somebody from your
10 office -- I'm sorry. If you had to terminate somebody
11 from your department, would you have to interact with
12 Robert Shoemaker with respect to that decision?

13 A. Yes.

14 Q. Besides Shoemaker, is there anybody else you
15 would have to interact with?

16 A. Human resources.

17 Q. Who at human resources?

18 A. Sharon Abrams.

19 Q. Anybody else?

20 A. No.

21 Q. Did you have to interact with anybody at the
22 corporate office in Birmingham?

23 A. No.

24 Q. I just want to go back to the different duties of

B 163



WILCOX & FETZER LTD.
Registered Professional Reporters

1 A. The chemical industry is very cyclical and the
2 downturn was beginning. The companies were not spending
3 capital on building large -- on expanding their
4 facilities.

5 Q. What did that mean to the company as far as the
6 work now starting to shift from large projects to small
7 projects?

8 A. There's two things. It means that your skills of
9 people have to change and, secondly, there's typically
10 less small projects, which means that your numbers have
11 to drop down.

12 Q. When you say "numbers," do you mean personnel?

13 A. Yes.

14 Q. Meaning some people have to be let go?

15 A. Yes.

16 Q. Are you saying in 1998 -- let me rephrase.

17 In 1998, 1999, were there concerns that the
18 company may have to start to let people go in the process
19 department?

20 A. I think the concerns started a little bit later
21 than that.

22 Q. When did the concerns start?

23 A. Around about 2000.

24 Q. When was the first time you were advised that

B 164



WILCOX & FETZER LTD.
Registered Professional Reporters

Peter Howe

39

1 there was a concern or did you advise somebody that you
2 started to be concerned?

3 A. I advised someone that I started to get
4 concerned.

5 Q. Who did you advise?

6 A. My manager, Mr. Shoemaker.

7 Q. What did you say to Mr. Shoemaker?

8 A. On a weekly basis this is something we do -- let
9 me clarify.

10 There's a weekly staff meeting. The focus
11 of the staff meeting is to look at manpower in relation
12 to projects that we have in-house. So weekly we would
13 discuss our utilization and if -- we discussed whether we
14 need to hire people or whether we needed to lay people
15 off, based on workload.

16 Q. These weekly meetings that you have with
17 Mr. Shoemaker, were they just between the two of you?

18 A. No.

19 Q. Who else would be there?

20 A. All the other department managers within the
21 engineering group would be there.

22 Q. Would Mr. Pinson be there?

23 A. No.

24 Q. Was Shoemaker leading the meeting?

B 165



WILCOX & FETZER LTD.
Registered Professional Reporters

1 Q. Have you ever seen that document before?

2 A. I don't think so.

3 Q. Okay. If you look at Howe 1 and 2, it appears to
4 be a list of process department employees as of November
5 of 2003.

6 A. Yes.

7 Q. Okay. Looking at that, at both lists, as of
8 November of 2003 is there anyone that's missing? Can you
9 recall if there's any people who were in the process
10 department at that time, but are not on both of these
11 lists?

12 A. It looks like the lists aren't exactly the same.

13 Q. How is it different?

14 A. It looks like Mark Beitler is on the one list,
15 but not the other.

16 Q. Okay. Who is Mark Beitler?

17 A. He is a process engineer.

18 Q. Was he a process engineer as of November of 2003?

19 A. Yes, I believe he was. I believe he still is.

20 Q. Do you know what his classification was?

21 A. I would -- I don't know for certain, but I would
22 guess to be around about a senior engineer.

23 Q. Senior process engineer?

24 A. Yes.

B 166



WILCOX & FETZER LTD.
Registered Professional Reporters

1 Q. Does he still work for BE&K?

2 A. Well, he did work for BE&K a year ago when -- or
3 8 months ago when I was there. He worked for them at
4 that stage.

5 Q. So at the time of your resignation in August of
6 2005, he was an employee of BE&K?

7 A. Yes.

8 Q. After that time you don't know if he is still
9 there or not?

10 A. That's correct.

11 Q. Do you know what Allstates is?

12 A. Yes.

13 Q. What is Allstates?

14 A. Subsidiary of BE&K that handles staffing,
15 contract staffing. They provide manpower to BE&K and
16 other clients.

17 Q. Do you know if Beitler ever worked for Allstates?

18 A. I don't know.

19 Q. Do you know how old Beitler is?

20 A. No.

21 Q. Do you know if he's over the age of forty?

22 A. I believe he's about my age and I'm forty-two, so
23 he's most likely in that region.

24 Q. Do you know if he's older or younger than you?

B 167



WILCOX & FETZER LTD.
Registered Professional Reporters

Peter Howe

44

1 A. No.

2 Q. Was he at BE&K in '95 when you came?

3 A. I do not know.

4 Q. Do you know if you hired him?

5 A. I did not hire him.

6 Q. As of November of 2003 what was your age?

7 A. As of November 2003 I was forty.

8 Q. So if you think Beitler was around your age, that
9 means you think he was probably around forty?

10 A. Yes.

11 Q. Okay. Looking at both lists, is there anybody
12 else?

13 A. You are asking me if there's differences between
14 the two?

15 Q. When you looked at it, Beitler was the one
16 difference you saw. But I guess what I'm asking, is
17 there any other person who was in the process department,
18 but is not on Howe 1 or 2?

19 A. It looks like Dan Poprik is also on Howe 2, but
20 not Howe 1. Is that correct?

21 Q. Dan Poprik?

22 A. Poprik.

23 Q. That is correct. Is there anybody else?

24 A. It looks like William Robinson is on Howe 1, but

B 168



WILCOX & FETZER LTD.
Registered Professional Reporters

1 not Howe 2.

2 Q. Who?

3 A. William E. Robinson, about 8 from the bottom or 7
4 from the bottom.

5 Q. Okay. Anybody else?

6 A. That looks like it.

7 Q. Now, William E. Robinson, he was working for the
8 process department as of November 1st, 2003, correct?

9 A. Let me clarify something.

10 Q. Sure.

11 A. We have something called a site team and we had a
12 site team at Chambers Works and that was a separate
13 department. There were some process engineers at
14 Chambers Works that were not in the process department,
15 but were in the Chambers Works department. I believe at
16 the time, this period, William E. Robinson was at
17 Chambers Works in the Chambers Works department and that
18 may be the reason for that discrepancy.

19 MS. DiBIANCA: Do you have the rest of
20 these -- is this a page of a document?

21 MR. ANGLADE: Let's go off the record.

22 (Discussion off the record.)

23 BY MR. ANGLADE:

24 Q. All right. Now, you were explaining William



WILCOX & FETZER LTD.
Registered Professional Reporters

B 169

1 A. It is possible.

2 Q. Now, in 2002 did anything happen at the company
3 to cause a greater concern that there would be lack of
4 work?

5 A. It was a time when the workload was dropping.
6 The curve, downward slope of our business was dropping
7 pretty fast.

8 Q. Did that start in 2002?

9 A. I think the trend started before that, 2001.

10 Q. 2001 the trend started to happen?

11 A. Yeah.

12 Q. At that time, 2001, were you having conversations
13 with your employees about that trend?

14 A. Yes.

15 Q. Do you know who Jennifer Lin is?

16 A. Yes.

17 Q. Who is Jennifer Lin?

18 A. Jennifer Lin is a process engineer that I hired
19 and I forget the date, but maybe 2004, 2003 maybe.

20 Q. If you look at Howe 1 for the entry for Jennifer
21 Lin, it says her date of hire?

22 A. 2002.

23 Q. And she was hired -- do you know what position
24 she was hired at?

B 170



WILCOX & FETZER LTD.
Registered Professional Reporters

1 A. If I remember correctly, she was hired as a
2 senior engineer.

3 Q. Did she eventually become a design specialist?

4 A. Yes.

5 Q. Is a design specialist higher than a senior
6 engineer?

7 A. Yes.

8 Q. At the time she was hired was there still a
9 concern about lack of work at BE&K?

10 A. At the time when she was hired we needed people.

11 Q. If you look at Howe 1, it says her date of birth
12 is 2-20, 1963; date of hire is 10-14, 2002. That would
13 have made her 39 years old at the time she was hired?

14 A. Yes.

15 Q. Would you typically still continue to hire
16 people, even though that was there was a concern that
17 there was lack of work?

18 A. Yes.

19 Q. Why is that?

20 A. Because even though the business is having a
21 downward trend, there are cycles within that. We get
22 awarded a job, we have to hire people. And if a job
23 finishes or gets cancelled, we have to lay people off.

24 Q. At the time Jennifer was hired, do you recall

B 171



WILCOX & FETZER LTD.
Registered Professional Reporters

1 A. Yes. It was at the end of the 2003 school
2 semester, so it has to be -- must have gave him the offer
3 in April, May 2003.

4 Q. Do you recall when you first interviewed him?

5 A. I do not recall the exact date, but it was the
6 beginning portion of that year, 2003.

7 Q. Towards the end of his school year?

8 A. Yes.

9 Q. So in the spring of 2003?

10 A. Yes.

11 Q. Now, was there a job posting for the position or
12 advertisement?

13 A. We went -- I believe we went to Drexel and
14 University of Delaware career counselors to get resumes.

15 Q. Why were you looking to hire somebody at that
16 time?

17 A. I believe there was a -- the relief device work
18 with Dan Dayton at DuPont was picking up and we needed to
19 add one or two people to that group.

20 Q. Was this a particular project?

21 A. Almost a program that -- DuPont had this program
22 to document all of their relief devices in their white
23 pigments business.

24 Q. Document all relief devices in their white

B 172



WILCOX & FETZER LTD.
Registered Professional Reporters

1 pigments business?

2 A. Yes.

3 Q. Was this -- do you know what the DTT project is?

4 A. Yes.

5 Q. What is the DTT project?

6 A. Dupont Titanium Technology.

7 Q. What does that mean?

8 A. Well, that's the name of their business unit,
9 department. DTT is the name of a DuPont business unit
10 that manufactures white pigments.

11 Q. Were you looking to hire somebody to work in that
12 business unit?

13 A. We were -- we knew at the time that that
14 particular area was going to require some new hires and
15 so we were investigating potential employees.

16 Q. The DTT unit was going to require new hires?

17 A. Yes.

18 Q. Okay. Was Chris eventually hired to work in that
19 unit?

20 A. When I hired him, that was one of the areas that
21 I told him would most likely be, would be most likely
22 where we would assign him to.

23 Q. When was the decision made that BE&K was going to
24 hire somebody?

B 173



WILCOX & FETZER LTD.
Registered Professional Reporters

Peter Howe

63

1 A. I would say in the spring of 2003.

2 Q. How did that decision come about?

3 A. A few of the project areas such as DTT, there
4 were indications of picking up some activity. And so in
5 advance of that, we started going through the motions of
6 looking for candidates.

7 Q. Okay. Was that something you initiated or did
8 someone approach you about looking at new candidates for
9 this opportunity?

10 A. Well, we have regular project meetings with our
11 clients and the clients typically give us an indication
12 that, you know, it is looking like we are going to be
13 needing to pick up staff, because of new project
14 activity. And so our client would normally give us some
15 indication.

16 Q. The client at that time was Dan Dayton?

17 A. Yes.

18 Q. So when you said you spoke to the client, you
19 were speaking to Mr. Dayton?

20 A. Yes.

21 Q. So did Mr. Dayton tell you that he was looking to
22 hire new people?

23 A. Mr. Dayton would tell us that the project load in
24 this group is going to be picking up and that we need to

B 174



WILCOX & FETZER LTD.
Registered Professional Reporters

1 A. Approximately one hour.

2 Q. What was discussed during the interview?

3 A. Discussed what he had learned in his -- at
4 college. What were his majors. Discussed a little about
5 where he had worked during his co-ops or during the
6 summer, what type of work he had done. Discussed what
7 type of work he was interested in doing. That was pretty
8 much it.

9 Q. Anything else discussed?

10 A. I'm sure there were other things discussed, but
11 along those lines.

12 Q. Was there any discussion about the type of work
13 that he would be doing if he was hired?

14 A. I believe I most likely told him that we were
15 looking to increase the size of our project group in the
16 relief device area. I don't know if I specifically said
17 it was the DuPont relief devices, but I did say that
18 approximately one-third of all hours spent in the process
19 group are on relief devices. So it was a high likelihood
20 that's where he would work.

21 Q. Do you know if you mentioned specifically the DTT
22 project to him during the interview?

23 A. I believe I did.

24 Q. You said one-third of all hours spent on the

B 175



WILCOX & FETZER LTD.
Registered Professional Reporters